IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 20263 of 2006(K)

PETITIONER:

K.PRASANNAKUMAR, SURYAPRABHA,
TC 8/813, TV NAGAR, THIRUMALA P.O.,
THIRUVANANTHAPURAM-6.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:

1. THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK PRODUCERS UNION LTD., T.177 (D) (APCOS), REP. BY MANAGING DIRECTOR, KSHEERA BHAVAN, PATTOM, TVM-4.

2. DIRECTOR OF DAIRY DEVELOPMENT, THIRUVANANTHAPURAM.

3. REGISTRAR OF DAIRY CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.

4. S.SUKUMARAN NAIR, PRESIDENT, DAIRY OFFICERS ASSOCIATION, (TRCMPU) LTD., AMBALATHARA, THIRUVANANTHAPURAM.

ADDL.R5
B.S.JYOTHI, MANAGER (PRODUCTIONS),
TCRMPU LTD., TRIVANDRUM DAIRY,
AMBALATHARA, POONTHURA P.O.

(ADDL.R5 IMPLEADED AS PER ORDER DATED 11/08/2006, IN I.A.NO.11127/06)

BY ADV. SMT.A.K.PREETHA FOR R5
SRI.M.R.RAJESH
SMT.BINDHYA JOSE
SRI.B.S.KRISHNAN(SR.)
SRI.K.ANAND (A.201) FOR R1
SMT.LATHA KRISHNAN
SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL) FOR R4
SRI.A.R.DILEEP
SMT.KAVITHA GANGADHARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1	TRUE COPY OF THE ORDER DATED 30/06/2000
EXT.P2	TRUE COPY OF THE ORDER DATED 21/05/2005 PROMOTING PETITIONER TO THE POST OF SR.MANAGER
EXT.P3	TRUE COPY OF THE PETITION DATED 28/02/2006
EXT.P4	TRUE COPY OF THE ORDER DATED 04/03/2006
EXT.P5	TRUE COPY OF THE COUNTER STATEMENT
EXT.P6	TRUE COPY OF THE ORDER DATED 11/07/2006
EXT.P7	TRUE COPY OF THE PROCEEDINGS DATED 19/07/2006

RESPONDENT'S EXTS:

EXT.R5(a)	TRUE COPY OF G.O.(MS)NO.80/07 AD,TVPM DATED 03/03/1997 ISSUED BY THE 1ST RESPONDENT'S
EXT.R5(b)	TRUE COPY OF THE PROCEEDINGS NO.TRU/PER/5/97/572 DATED 15/07/1997 ISSUED BY THE MANAGING DIRECTOR, TCRMPU
EXT.R5(c)	TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE ADDL.5TH RESPONDENT IN THE PROCEEDINGS BEFORE THE 2ND RESPONDENT
EXT.P4(a)	A TRUE COPY OF JUDGMENT IN O.P.NO.9452/1999 DATED 23/06/2005 OF THIS HONOURABLE COURT.

\\TRUE COPY//

J.M.JAMES, J.

- -

W.P.(C) No. 20263 of 2006 (K)

- -

Dated this the 22nd day of January, 2007

J U D G M E N T

Under Exhibit P4 order dated 04/03/2006, the second respondent, the Director of Dairy Development, stayed Exhibit P2 order of promotion of the writ petitioner, and also further ordered the parties to maintain status quo.

2. The counsel for the additional fifth respondent submits that Exhibit P3 petition is pending before the third respondent, on which Exhibit P4 order was passed and the same may be directed to be disposed of.

3. The counsel for the writ petitioner, however, brought to the notice of this Court that the fourth respondent is a stranger, who had retired long back and he has got no locus standi, to file a representation, before the third respondent, on service matters relating to the writ petitioner or others, who are in service.

4. The counsel for the first respondent has submitted that the service matters between the Society and the employees, or the employees inter se, are to be considered as a dispute under

Section 69(2)(d) of the Kerala Co-operative Societies Act, 1969, in short 'the Act'. This has been considered by a learned Single Judge of this Court in **Prakasini v.Joint Registrar** [2006 (1)KLT 199], with which I am in respectful agreement. Therefore, the fourth respondent, who preferred Exhibit P3 representation before the second respondent has got no locus standi, and he has also got no right to file public interest litigation. In **Gurpal Singh v.State of Punjab** [2005 (3) KLT 588 (SC)], the Apex Court has considered that in service matters, public interest litigation should not be entertained, and following the decision in **Duryodhan Sahu (Dr.) v.Jitendra Kumar Mishra** [1998 (7) SCC 273], should throw out such litigations. In the case at hand, the fourth respondent has got no right or interest in bringing a public interest litigation before any authorities. Therefore, in the light of the Gurpal Singh's case, cited above, the fourth respondent has got no right or interest to file any representation before the second respondent. Obviously, Exhibit P4 order passed by the second respondent staying the promotion of the writ petitioner has no standing. Therefore, I quash Exhibit P4. Implementing Exhibit P4 order, first respondent issued Exhibit P7 order dated 19/07/2006. The same has also no sustainability. Therefore, Exhibit P7 is also quashed.

5. The obvious question that is raised by the counsel for the additional fifth respondent is that, Exhibit P3 representation may be forwarded to the arbitration court for a just decision. Section 70B is dealing with the matters pending at the time of the amendment, which came into effect from 02/01/2003. In other words, all the disputes, that were pending as on 02/01/2003, shall be transferred to the Co-operative Arbitration Court. Exhibit P3 was preferred only on 28/02/2006. Therefore, Section 70B of the Act, has got no acceptance, as the same being not pending on 02/01/2003.

6. In the above facts situation, I direct the concerned persons, including the additional fifth respondent to approach the Co-operative Arbitration Court, if they are so advised, with any dispute, relating to the inter se seniority, or other matter coming within the ambit of Section 69 of the Act.

The writ petition is accordingly, allowed.

(J.M.JAMES)
Judge

ms